

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.10993 of 1998

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Dated 04-07-2007

Between:

Smt G.A.Ratna Manjari.

..... PETITIONER

AND

The Director/Commissioner of Collegiate Education, Nampally, A.P,
Hyderabad & others.

.....RESPONDENT

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.10993 of 1998

ORDER:

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Petitioner questions the action of the respondents in not admitting the post of lecturer in English in the second respondent-college to grant-in-aid from 01-06-1984 and in not approving her name in such grant-in-aid post along with the posts admitted in G.O.Ms.No.527, dated 10-12-1984 as arbitrary, illegal and consequently, direct the respondents to admit the post of the petitioner into grant-in-aid with effect from 01-06-1984 and to grant her all other benefits.

Petitioner, an M.A. in English, applied for the post of lecturer in the second respondent-college pursuant to an advertisement having been issued inviting applications. Petitioner claims to have appeared before the duly constituted selection committee and to have been selected to the post of lecturer in English. Petitioner submits that the second respondent-college, vide proceedings dated

23-11-1982, had issued letter of appointment and had placed her in the scale of Rs.530-1050/-. Petitioner claims to have joined as a lecturer on 06-12-1982 and submits that her appointment was approved by the Osmania University with effect from 06-12-1982 vide proceedings dated 29-06-1984. Among the two posts of lecturers in English in the second respondent-college, one post was already admitted into grant-in-aid while the other was not. The second respondent, vide letter dated 19-08-1982, requested the first respondent to admit the post to grant-in-aid. Again, the second respondent-college, vide letter dated 06/08-03-1984, sought for

admission of the post into grant-in-aid. Pursuant to G.O.Ms.No.527 dated 10-12-1984, the third respondent admitted all the posts recommended by the second respondent-college to grant-in-aid except the post of lecturer in English. While the others were given the benefit of grant-in-aid scales i.e. U.G.C. scales of pay, the petitioner was denied the said benefit. After a lapse of four years, the second respondent-college again, vide letter dated 26-02-1988, informed the first respondent that the post of second lecturer in English, which was already included at the time of submission of proposals for admission of B.Sc. course to grant-in-aid vide letters dated 19-08-1982 and 06-03-1984, had not been admitted to grant in aid, that she was appointed in view of the increase of the work load consequent upon introduction of undergraduate courses in science and, as the Government had admitted the course for grant-in-aid, the second respondent requested for sanction of the second post of lecturer in English from 01-06-1984 i.e. from the date of admission of B.Sc. course under grant-in-aid. Pursuant thereto the first respondent, vide letter dated 21-10-1990, recommended the case of the petitioner to the third respondent for being admitted into grant-in-aid with effect from 01-06-1984. Ultimately, G.O.Ms.No.128 dated 08-06-1993 was issued wherein the post of lecturer in English was admitted to grant-in-aid with effect from 01-04-1993 instead of 01-06-1984 as requested by the first and second respondents. Despite G.O. Ms. No. 128, dated 08-06-1993 being issued, grant-in-aid was not released and it is only three years thereafter, vide G.O. Ms. No. 223 dated 26-10-1996, that the third respondent ratified the action of the second respondent in appointing the petitioner as a lecturer in English in relaxation of the selection procedure prescribed in G.O.Ms.No.905, dated 21-09-1976. Petitioner contends that her appointment was approved and the post was directed to be

admitted to grant in-in-aid against the aided vacancy sanctioned in G.O.Ms.No.128 dated 08-06-1993 with monetary benefits from the date of issuance of the orders. Petitioner's grievance is that while the second respondent had admitted her post to grant-in-aid with effect from 08-06-1993, and with monetary benefits from 26-10-1996, she was denied the benefit of being given appointment in the grant-in-aid post and monetary benefits attached thereto with effect from

01-06-1984. Petitioner contends that the action of the respondents had also resulted in her being denied the benefit of Career Advancement Scheme and that the service rendered prior to 08-06-1993 was also not counted for any other purpose including seniority. Petitioner would contend that she could not be made to suffer for the lapses of the respondents and for no fault of hers, and that she was illegally denied admission into grant-in-aid from 01-06-1984.

In the counter affidavit filed on behalf of the respondents, it is stated that the petitioner was appointed as a lecturer in English against the unaided post on 06-12-1982 in the vacancy reserved for the scheduled castes, that, on verification of the original records of the second respondent-college, it was noticed that the Management had notified the post of lecturer in 1982 which was reserved for the scheduled castes and that the selection committee in the meeting held on 22-11-1982, wherein both representatives of Government and the University had attended, had selected the petitioner as a lecturer in English against the scheduled caste quota. Reference is made to the minutes of the selection committee meeting to submit that it was noted therein that Mr.Vedasharan, a scheduled caste candidate, had declined to work for more than 3 months as he had appeared for I.A.S. examination

and that the rule of reservation was relaxed in the petitioner's favour to enable her to be appointed. It is stated that the Government in G.O.Ms.No.223 dated 26-10-1996 had issued orders ratifying the action of the second respondent-college in having irregularly appointing the petitioner in relaxation of the selection procedure prescribed in G.O.Ms.No.905 dated 21-09-1976 and had permitted the Commissioner of Collegiate Education to approve her appointment and appoint her against the aided vacancy sanctioned in G.O.Ms. No. 128 dated 08-06-1993 and to obtain a letter of undertaking from the Management before release of grant-in-aid. It is stated that pursuant thereto, the petitioner was admitted to grant-in-aid with effect from 08-06-1993. Respondents would contend that relaxation of the selection procedure, and duly relaxing the rule of reservation, was itself a concession to the petitioner and, since the post was sanctioned only with effect from 08-06-1993, the question of admitting her to grant-in-aid with effect from 01-06-1984 did not arise.

Sri P.V.S.S.S.Rama Rao, learned counsel for the petitioner, would contend that since the petitioner was selected pursuant to a process of selection conducted by a duly constituted selection committee, *albeit* against a post reserved for the scheduled castes, she was entitled to be admitted to the grant-in-aid post, for consequential benefits of U.G.C scales of pay with effect from 01-06-1984 and that the inordinate delay on the part of the respondents in admitting her post to grant-in-aid for nearly 9 years thereafter, and in releasing monetary benefits with effect from 26-10-1996 more than 12 years after her appointment, was arbitrary and illegal and the respondents were not entitled to take advantage of their own wrong in unduly delaying the petitioner's appointment and in denying the monetary benefits, which she was entitled to. Learned counsel would submit that the prohibition in A.P. Act 26 of 2006 had

no application to the petitioner's case and that, in any event, the petitioner was entitled for notional fitment, at least, for extension of pensionary benefits.

Learned Government Pleader for Higher Education, on the other hand, would contend that since the very appointment of the petitioner as a lecturer was contrary to the rule of reservation, the proceedings of the selection committee was a nullity, that her subsequent admission into grant-in-aid post despite her initial appointment being contrary to the rule of reservation was itself a concession and the mere fact that the respondents had extended a concession would not justify her claim of being given the further benefit of payment of aided pay scales/UGC scales of pay with effect from the date of her initial irregular appointment dated 01-06-1984. Learned counsel would submit that, in any event, Act 26 of 2006 is a complete bar and that the petitioner cannot claim the benefits of either arrears of salary in the aided scales of pay or for notional fixation of pay scales or for extension of pensionary benefits.

It is well settled that grant-in-aid is in the nature of financial assistance given by the Government and that neither could an employee claim, as a matter of right, that the Government should extend financial assistance for the post in which he is working in a private college nor can he seek a mandamus from this Court in this regard. The dispute, in the present case, revolves around extension of aided scales of pay with effect from 01-06-1984, the date on which the petitioner was initially appointed as a lecturer in English in the second respondent-college. Subsequently, the petitioner has been given the benefit of aided pay scales vide G.O.Ms.No.128 dated 08-06-1993 and monetary benefits pursuant to G.O.Ms.No.223 dated 26-10-1996. It is necessary to note that the

Government had issued G.O.Ms.No.128 dated 08-06-1993 admitting the post of lecturer in English, in which the petitioner was working, to grant-in-aid. The petitioner had kept silent and had invoked the jurisdiction of this Court only five years later, after G.O.Ms. No. 128 dated 8-6-1993 was issued ratifying her earlier irregular appointment and appointing her in the aided post of lecturer in English. The unexplained latches and delay of nearly five years would disentitle the petitioner from claiming the benefit of grant-in-aid by way of the present writ petition.

Under Section 4 of Act 26 of 2006 the claims of employees of private aided colleges and institutions imparting technical education for release of grant-in-aid by counting the increments drawn prior to the date of admission of the post to grant-in-aid shall stand extinguished from the date of commencement of the Act. Under sub-clause (2) thereof, no proceedings shall be maintained or continued in any Court against the Government by any employee of a private aided college and institution imparting technical education claiming release of grant-in-aid taking into account the increments earned in the post prior to the date of admission of the post to grant-in-aid.

In the present case, the petitioner is claiming release of grant-in-aid by counting increments, which she claims to be entitled to prior to the date of admission of the post to grant-in-aid, at least, for the purpose of pension. Such a claim is clearly prohibited by Act 26 of 2006. Viewed from any angle, the relief sought for cannot be granted.

The writ petition fails and is accordingly dismissed. However, in the circumstances, without costs.

04-07-2007

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